

North Dakota
Office of Attorney General

**1999—2001
Biennial Report**



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Attorney General

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DUTIES AND RESPONSIBILITIES OF THE OFFICE OF ATTORNEY GENERAL

The North Dakota Office of Attorney General is one of twelve independently elected statewide offices in North Dakota and was established at statehood in the 1889 state constitution.

The Attorney General's Office represents and defends the interests of the people of the state of North Dakota by executing the responsibilities given to the North Dakota Attorney General by custom, the North Dakota Constitution, North Dakota and federal case law and statutes enacted by the North Dakota Legislative Assembly and the people of the state of North Dakota. In short, the Attorney General is the chief legal counsel and advisor to state government.

The Attorney General has primary authority to act on behalf of the state of North Dakota in several defined areas. For example, the Attorney General has primary responsibility over consumer protection and antitrust, and training and certification of peace officers. The Attorney General may take any legal action deemed necessary to protect the rights of North Dakotans, to defend the actions of state officials, and to ensure public order.

In many areas, the Attorney General's Office works concurrently with North Dakota's State's Attorneys, County Sheriffs and City Chief's of Police, and other state and federal agencies to carry out the responsibilities of the office.

The North Dakota Office of Attorney General also provides legal representation to all of state government, including the governor, all of the departments of state government, and all of the numerous state agencies, boards, and commissions.

MAJOR FUNCTIONS:

- Serve as the state's legal adviser by issuing written opinions on questions concerning the state's law and constitution.
- Issue opinions to state's attorneys, city attorneys and governing boards to interpret state laws that affect cities and counties.
- Serve as legal counsel for North Dakota's state agencies, boards and commissions.
- Propose new legislation, support the passage of laws of public interest, and issue legal opinions to legislators.
- Represent the state in civil and criminal lawsuits in which the state is an interested party.

- Defend state employees acting within scope of employment.
- Assist local governments in criminal investigations and drug enforcement.
- Protect the rights of consumers.
- Regulate charitable gambling.
- Serve on several state boards and commissions, including the Industrial Commission, the Board of University and School lands, the Public Employees Retirement System and the Pardon Advisory Board.
- Prevent and control fires and hazardous materials incidents, and inspect certain buildings for fire safety.
- Train police, sheriffs, firefighters, emergency responders, game wardens, highway patrol troopers, gaming personnel and state's attorneys.
- License alcoholic beverage retailers; wholesale and retail tobacco product dealers; transient merchants; coin-operated amusement devices operators, lessors, and distributors; fair boards; polygraph operators; charitable gaming operators; gaming manufacturers and distributors; and wholesale fireworks distributors.

OFFICE ORGANIZATION AND MANAGEMENT

The Office of Attorney General is organized into 11 divisions with specific duties and responsibilities: Bureau of Criminal Investigation, Gaming Division, Finance and Administration Division, Criminal Regulatory Division, Fire Marshal Division, Civil Litigation Division, Natural Resources and Indian Affairs Division, State and Local Government Division, Consumer Protection and Antitrust Division, Information Technology Division, and Attorney General Administration Division.

The Attorney General also has supervisory responsibilities over the North Dakota Racing Commission. The Commission licenses and regulates activities relating to live and simulcast pari-mutuel horse racing and encourages the growth of North Dakota's racing industry. The Commission consists of the chairman and four other members appointed by the Governor. Members serve five-year terms. One member must be appointed from a list of nominees submitted by specified organizations of horse breeders. Day-to-day activities are handled by the director of racing who is appointed by the Commission and works closely with the Attorney General's office.

BIENNIUM EXPENDITURES

Total expenditures for the biennium totaled \$23.9 million dollars. The office was authorized 159 FTEs and had a salary base of \$12.6 million. Of the total expenditures, \$14 million (59%) was general fund monies and \$7.9 million was federal funds (33%). A

series of charts detailing the breakdown of expenditures for the biennium are included at Appendices A, B, and C.

COSTS ASSOCIATED WITH REPRESENTATION

The costs associated with defending and prosecuting actions on behalf of the state by attorneys in our office was \$2.16 million. Five of our divisions were responsible for the representations – civil litigation, criminal, state & local government, natural resources and consumer protection. Information regarding the split of costs between divisions is included at Appendix D. In addition the Risk Management Division of the Office of Management and Budget spent \$352,620 in legal fees associated with actions against the state. These fees were paid to various special assistant attorneys general and for services provided by our office.

In addition to fees paid for legal actions, the office also monitors the legal fees paid for the services of the 159 special assistant attorneys general. These special assistant are either lawyers employed by state agencies as in-house counsel or are private attorneys employed to do legal work for statutorily created boards and commissions. During the 99-01 biennium an additional \$3.67 million was paid in either salaries or legal fees for these special assistant attorneys general. Of these fees, an undetermined percentage was expended for litigation-related services. Included within these costs were in-house counsel salaries and private law firm legal fees totaling \$1.99 million for services provided to the North Dakota Workers Compensation Bureau.

BUREAU OF CRIMINAL INVESTIGATION

The Bureau of Criminal Investigation (BCI) is the law enforcement division of the Office of Attorney General. The Bureau has full law enforcement and arrest authority throughout the state of North Dakota. By statute, BCI is an assisting law enforcement agency, except at the discretion of the Attorney General. There are five sections within BCI that provide services to local, state, and federal law enforcement agencies: investigative, training, information services, administrative services, and grants management.

The Investigative Section assists local, state, and federal law enforcement agencies in the investigation of crimes within the state of North Dakota. The division has field offices in Bismarck, Devils Lake, Dickinson, Fargo, Grafton, Grand Forks, Jamestown, Minot, Rugby, Stanton, Valley City, Wahpeton, and Williston. The field offices house criminal and narcotics agents who support local law enforcement agencies in criminal investigations. The Training Section provides training to peace officers and prosecutors and licenses all peace officers. The Information Services Section compiles crime data on a statewide level and serves as the state's central repository for criminal history information. The Administrative Services Section coordinates a number of special projects as well as the day-to-day support functions required for staff located throughout the state. The Grants Management Section oversees federal grants for state and local criminal justice agencies.

INVESTIGATIVE SECTION

The Bureau's investigative section assists local and state law enforcement agencies in murder, burglary, cybercrime, sexual assault, theft, and narcotics trafficking investigations statewide. Thirty-one agents assist local authorities in conducting and coordinating their investigations. The agents also provide smaller local law enforcement agencies a mechanism through which they may share resources and personnel.

- **Cybercrime.** A rapidly growing area of concern is cybercrime. Access to the Internet has brought countless opportunities and resources to our citizens. Unfortunately, these opportunities and resources are also available to the criminal element, and easy access to literally anyone provides them with the opportunity to exploit children and adults, and to expose them to pornography and numerous fraudulent activities. A cybercrime committee, appointed by the Attorney General and comprised of legislators, and local, state, and federal law enforcement, considered a number of issues that North Dakota officials should be prepared to handle, including adequate investigative support, prosecution, and education.

To better address the growing cybercrime issues in the state, the office dedicated the efforts of one investigator to coordinate cybercrime investigative activities and to provide assistance to local law enforcement. The work demands the full attention of this agent who has the expertise necessary to properly seize unique evidence, analyze system hardware and software, adequately investigate alleged crimes, and provide expert testimony in this very technical area. It is impossible, however, for one person to be an expert in all areas of information technology. Because the North Dakota Information Technology Department (ITD) has staff with a much broader area of expertise, the Office of Attorney General and ITD entered into a memorandum of understanding that allows the agencies to work together when necessary and benefit from their areas of expertise.

- **Multijurisdictional Narcotics Task Forces.** Bureau agents serve as coordinators and consultants for seven of the nine multijurisdictional narcotics task forces in North Dakota. The multijurisdictional task forces provide dedicated investigators in the area of narcotics trafficking. The Bureau and the task forces receive additional assistance and resources to enforce drug laws from the Counter Narcotics Support Division of the North Dakota National Guard Military Support Office. The National Guard provide personnel, logistics, equipment loans, assistance with surplus equipment procurement, mission support, and transportation. They also provide vital law enforcement support through the Recognizance and Interdiction Detachment (RAID) Program. Six pilots and two OH-58 helicopters, equipped with Forward Looking Infrared Radar (FLIR), are dedicated for use in Counterdrug missions, search and rescue, surveillance, or other emergency law enforcement related situations.

- **Methamphetamines.** Although marijuana continues to be the drug of choice in North Dakota, methamphetamine trafficking is the biggest problem confronting the investigative section. Because methamphetamine is an extremely addictive drug, the demand for the drug provides dealers with a considerable market.

North Dakota's prairies provide a security blanket for drug dealers running methamphetamine labs. As prices fall and police pressure increases on the West Coast, methamphetamine dealers have spread their operations to rural North Dakota. The Investigative Section helped close down 19 meth labs in 1999. That number increased to 46 in 2000, and a staggering 68 through the first 10 months of 2001.

Methamphetamine labs contain extremely dangerous substances and pose significant health hazards to BCI agents who are often the first responders to a clandestine lab scene. To ensure that staff are adequately trained and equipped for these encounters, lab response teams have been organized throughout the state and have been trained on how to quickly and safely respond to meth labs. Twelve BCI agents were trained to respond to meth labs and attended site safety training.

Methamphetamine labs also pose a significant public health hazard. The very toxic nature of these labs requires experts to respond quickly and to properly dispose of the chemicals found at the site. Specifications established by the Environmental Protection Agency must be followed, and this process can be very costly – anywhere from \$2,000 to \$20,000. Reductions in federal law enforcement funding have left state and local officials with the burden of contracting for this service. Fortunately, the 2001 Legislature recognized the potential budget issues local and state officials faced and specifically identified funding for lab cleanup as an item the Emergency Commission could approve if, in fact, federal funding is reduced. In addition, the Office of Attorney General entered into an agreement with the North Dakota Department of Health to ensure that state officials understand their respective roles and responsibilities regarding the safe and efficient handling of meth labs.

Efforts to educate parents, youth, community members, emergency responders, law enforcement, and those in the agriculture community about the signs of use and manufacture have been critical to the Bureau's efforts. Throughout the biennium, agents made presentations on various drug-related topics and educated 2,361 individuals in 1999, 5,521 in 2000, and 4,476 through the first six months of 2001.

The Office of Attorney General continues to participate as a member of the Midwest High Intensity Drug Trafficking Area (HIDTA), a regional network that includes the states of North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri. This partnership provides for regional collaboration, demand reduction, and intelligence activities. The association with HIDTA has provided a tremendous boost to the

efforts to combat methamphetamine by allowing the Bureau to maintain additional HIDTA staff including four special agents located throughout the state, a prosecutor co-located with the United States Attorney's staff, and two forensic scientists for the North Dakota Department of Health's Crime Lab.

Methamphetamine knows no borders. Therefore, the Office of Attorney General, and state, local, and federal officials met with Canadian law enforcement to address how the government entities can work together to achieve a common goal – stopping the flow of meth and precursors required for the production of meth between the two countries. In response to concerns about the adequacy of resources and the availability of staff necessary to impede the flow of illegal drugs at or near the border, the Attorney General has recommended two additional Border Patrol agents and two additional Customs agents in North Dakota to be assigned to the Grand Forks Narcotics Task Force to concentrate on cross-border issues.

Significant Cases

- In October 1999, agents assisted the Traill County Sheriff's Department as they responded to a domestic complaint. The victim's husband was drunk and disorderly and had taken their two children, ages one and three, from their daycare provider. When the subject was located he held a knife to the throat of one of the two children and eventually began moving toward the sheriff with the knife and the child. After repeated orders to drop the knife, the sheriff fired one round, fatally striking the subject when he was within three feet of the sheriff. The child was not harmed. The Traill County State Attorney ultimately ruled that the shooting was a justifiable homicide.
- In November 1999, a pickup belonging to Norman Limesand was found in Moorhead, Minnesota, four days after Limesand was reported missing from Lamoure County. Limesand has not been found, and the case continues.
- In March 2000, a New Hampshire arrest warrant issued for Christopher McNeil led FBI officials to Belfield, North Dakota. The South Sakakawea Narcotics Task Force assisted with the search and seizure of numerous narcotics, a weapon, facemasks, bank account information, bank bags, electronic equipment used to produce fake identification, identifications, and approximately \$100,000 in stolen property. McNeil subsequently admitted to participating in a New Hampshire robbery, as well as burglaries throughout the United States, credit card scams, and stealing US mail for the purpose of defrauding people. He is currently serving a 12-year federal sentence resulting from the investigation conducted by North Dakota authorities.
- In March 2000, the BCI assisted the Beulah Police Department with a school vandalism case. Damage to the school consisted of broken windows, desks, computers, and other items totaling approximately \$230,000. After offering a reward, an individual came forward and supplied pertinent information regarding the

perpetrators. One confession ultimately led to another, and eventually three individuals were charged and were either found guilty or plead guilty.

- In April 2000, the BCI assisted the Mayville Police Department, US Customs Service, and the Royal Canadian Mounted Police in disrupting a major theft ring operating out of Edmonton, Alberta. Pat Sanders, a student at Mayville State College, conspired with Darren Berg and Brent Lukian to ship stolen, high-value electronic equipment from Mayville to Edmonton. The equipment was purchased with stolen credit card numbers obtained over the Internet. Lukian and Berg arranged for various US vendors to ship equipment to Sanders in Mayville, who in turn repackaged the items and forwarded them to Lukian and Berg. Losses to the vendors was estimated to be in the hundreds of thousands of dollars.
- In September 2000, a lead from the Metro Area Narcotics Task Force in Bismarck caused agents in the Fargo area to work with local law enforcement on a case that resulted in the arrests of four individuals and the seizure of two pounds of methamphetamine, one pound of cocaine, \$10,700 cash, and two vehicles. In the end, eight individuals were indicted who were responsible for distribution of multiple pound quantities of meth and cocaine throughout the Fargo/Moorhead and Bismarck communities. Seven of the individuals were sentenced in federal court, and the last subject, who faces a life sentence, is awaiting sentencing. As a result of the investigation, an additional \$30,000 was recovered.
- In early 2001, approximately \$45,000 worth of stolen property taken during several burglaries and thefts in eastern North Dakota was recovered. The property included snowmobiles, 4-wheel ATVs, and other personal and business property. Three suspects were identified, one of whom pled guilty to charges of burglary and theft. A second was referred to Juvenile Court and a third suspect has not been charged.
- In May 2001, Thomas Eastvold was charged with mail fraud, causing false entries to be made in a bank transaction, and federal income tax fraud. Eastvold's scams included forging release of liens on car titles prior to selling the vehicles to unsuspecting victims, borrowing money on farm equipment that was owned by others, and borrowing money on equipment when multiple lenders had a secured interest in the same equipment. At one point, Eastvold sold equipment he did not possess to a lease company and then entered into an agreement to lease it back from them. Eastvold was ordered to pay restitution of close to one million dollars, nearly the entire amount he swindled from his victims.
- In May 2001, a suspect believed to be a substantial supplier of drugs in Drayton and the surrounding areas was arrested after the Grand Forks Task Force assisted North Dakota Probation and Parole with a search of his vehicle. The search resulted in the confiscation of items consistent with the manufacture of methamphetamine. Officers subsequently searched a building frequented by the suspect and found additional items related to the manufacture of meth.

- In June 2001, the Grand Forks Task Force worked with an informant who had knowledge of traffickers from Minneapolis, Minnesota, who were regularly delivering large amounts of methamphetamine to Grand Forks. The task force was able to conduct an investigation resulting in the arrest of all three suspects, as well as the seizure of two vehicles and ten pounds of methamphetamine. During the same time period, an unrelated individual attempted to transport an additional 10 pounds of methamphetamine to Grand Forks. Those drugs and two additional suspects were arrested.
- In June 2001, Fargo police responded to a call for assistance from bail bondsmen who were at a business location in Fargo to arrest and revoke the bond of James Wolf. Wolf refused to obey orders, drew a .45 derringer-style weapon, and pointed it at the officers. The officers fired their weapons at Wolf, who died at the scene. The Bureau assisted with the investigation, and the Cass County States Attorney found that the officers were justified in their actions.
- In June 2001, members of the Grand Forks Task Force purchased three ounces of meth for \$3,345 from Kevin Forschen, who had two felony warrants for his arrest at the time. His girlfriend, Jennifer Castoreno, made the delivery. Both Forschen and Castoreno were charged with AA felony delivery of methamphetamine.
- The Bureau assisted Morton County with the investigation of its Emergency Management Director Steven Conmy. Conmy was trading specialized law enforcement equipment to Bismarck/Mandan area narcotics dealers for meth. Cell phones, telephone bug detectors, metal detectors, emergency vehicle equipment, and mobile and portable radios were recovered, some of which had access to secure law enforcement communication channels. Conmy pled guilty to felony theft of property.
- The Bureau assisted with a drive by shooting in Wahpeton resulting from a fight that occurred a few hours prior to the shooting. The suspect was charged with attempted homicide, and the driver of the vehicle was charged with accomplice to attempted homicide.

TRAINING SECTION

The training section is responsible for providing and coordinating training for all law enforcement officers in North Dakota. In addition, the section carries out the licensing and record-keeping functions through the Peace Officer Standards and Training (POST) Board. The members of the POST Board are appointed by the Attorney General and represent all facets of law enforcement, as well as city and county governments. The POST Board enforces minimum standards for the issuance and maintenance of peace officer licenses, including continuing education and weapons qualification requirements. One hundred ninety-two training programs were presented to 5,013 students during this

period. Students in attendance for training sessions represented police and sheriffs' departments, and state and federal agencies.

During the 1999-2001 biennium, 2,105 employment changes were reported to the section. Of these, 273 persons terminated positions with law enforcement agencies in North Dakota, and 267 new persons were hired. The remaining changes were the result of personnel either changing positions within their agencies or moving from one agency to another. As of June 30, 2001, there were 1,749 licensed peace officers in North Dakota.

INFORMATION SERVICES SECTION

The information services section is the state's central repository for criminal histories and crime statistics. This section maintains information systems that provide law enforcement and other criminal justice agencies with information critical to the protection and safety of the citizens of North Dakota. The following are some of the systems maintained by the section:

- **Uniform Crime Reporting (UCR)/Incident-Based and Summary Reporting** – a statistical system that tracks crime in North Dakota and is a part of a national crime reporting system. Annual reports are prepared and published, and information is provided to law enforcement agencies as well as any persons making requests.
- **Offender Registration System** – a system for registering and tracking sexual offenders and offenders against children. It is part of a national sex offender registration initiative.
- **Criminal History Records System** – a system that compiles records of arrests and prosecutions of individual offenders for use by law enforcement, the courts, and the public. It is interfaced with the FBI's criminal records system and Interstate Identification Index (III).
- **Central Warrant Information System (CWIS)** – a system used by North Dakota law enforcement agencies to communicate information on outstanding arrest warrants for misdemeanor offenses, and to provide access to protection order information.
- **Concealed Weapon Permits** – a system for receiving and processing applications for concealed weapon permits and issuing permits to North Dakota citizens.
- **Automated Fingerprint Identification System (AFIS)** – a system operated as part of a regional program with Minnesota and South Dakota, that allows electronic scanning, transmission, and storage of fingerprint image data to aid in criminal investigations.

Offender Registration

During the 1999-2001 biennium, the number of registered offenders increased from 773 on July 1, 1999, to 810 on June 30, 2001. The number of offenders required to register increased from 1,058 to 1,247 during that period. While the number requiring registration increased by 189, improvements to computer programs allowed the Bureau to identify the number residing in different states. Thus, the number of actual in-state registrations only increased by 37.

The Bureau has engaged in extensive efforts to comply with the provisions of the federal Jacob Wetterling Act. The Wetterling Act requires, among other things, that the state's registration database be available to the FBI and other states through the National Crime Information Center (NCIC)/National Law Enforcement Telecommunication System (NLETS) network. A federal grant of \$217,305 was received through the National Sex Offender Registry Assistance Program (NSOR-AP) to assist with Wetterling Act compliance. The offender registration computer program was rewritten during the biennium, data elements were added to the program to comply with the national database requirements, and the new system was brought on line with reporting to the National Program beginning in February 2001.

The 1999 North Dakota Legislature mandated that Sex Offender Registration (SOR) data be available to law enforcement officers through the drivers license file. A separate SOR file was developed providing access when an inquiry is made on a drivers license. The mechanism was implemented in February 2001.

Education programs regarding changes to the sex offender laws were sponsored by the Bureau in the fall of 1999. Approximately 230 persons attended the training sessions in eight locations throughout the state.

Criminal History Records

The Bureau received almost \$1.1 million in the 1999-2001 biennium through the Crime Bill for the Criminal History Records System. This system has undergone extensive automated restructuring with the use of federal grants over the last 13 years. In addition, the National Criminal History Improvement Program (NCHIP) was funded as part of the federal Brady Act. The NCHIP grant provided funding for the systematic improvement of record systems. The NCHIP activities were ongoing during the biennium, and included quality control efforts, upgrading of Automated Fingerprint Identification System (AFIS) capabilities, linking AFIS and live-scan fingerprinting systems, and the acquisition of funds to improve disposition reporting.

In addition to major improvements to the criminal history record system, the NCHIP program allowed for the creation of electronic interfaces among criminal history records and other systems such as the offender registration system, CWIS, and the concealed weapon permits.

Concealed Weapon Permits

Concealed weapon permit applications increased steadily during the 1999-2001 biennium. Three thousand nine hundred seventy-four permits were issued between July 1, 1999, and June 30, 2001. Fees for these permits resulted in revenues of \$103,174. The number of active concealed weapon permits grew from approximately 5,185 on July 1, 1999, to 5,342 on June 30, 2001.

Automated Fingerprint Identification System

The 1995 Legislature authorized funding of the Automated Fingerprint Identification System (AFIS), an investigative tool for law enforcement which makes it possible to compare a single latent fingerprint left at a crime scene with millions of fingerprints contained in an automated file. The system was funded primarily with Edward Byrne grant funds, along with contributions from local law enforcement agencies and an appropriation from the state legislature. This program integrates with a multimillion-dollar AFIS installation in Minnesota, which is the repository for a regional fingerprint database for the states of Minnesota, North Dakota, and South Dakota. Fingerprint cards resulting from arrests in North Dakota are scanned in at BCI and are matched against the Minnesota files, as well as both North and South Dakota's files. The AFIS system gives North Dakota state-of-the-art technology, which allows law enforcement to:

- **Improve response time.** The time it takes for fingerprints to be searched against the existing file when local law enforcement agencies submit fingerprint cards is dramatically reduced.
- **Improve accuracy in both 10-print and latent identifications.** The benchmark criteria established for this system creates a level of accuracy not matched by human abilities to classify prints when large volumes are handled.
- **Search all applicant and new arrestee fingerprints against a file of unsolved latent prints.** Any new set of fingerprints can be checked against a file of prints taken from unsolved crimes.
- **Search the master fingerprint file for both 10-print and unsolved latent fingerprints.** When a local law enforcement agency makes an arrest, law enforcement personnel can search the master file for a match, or lacking an arrest, they can check the file for a match on the latent print.

Additional grant funding was procured in the 1997-99 biennium for live-scan fingerprint equipment to be installed in the state's largest jails, to interface with AFIS. Live-scan allows fingerprint images to be transmitted at booking time and for booking officers to receive a rapid response regarding any prior arrests of the booking subject. The 1999-2001 biennium saw the installation of live-scan systems and those agencies and the BCI benefit from the technology.

Domestic Violence Annual Report

In 1996, the first Services Training Officers Prosecutors (STOP) grant was awarded to the Office of Attorney General for collecting, analyzing, and publishing data on domestic violence from several databases in order to produce a report on domestic violence in North Dakota. In 1997, three of the state's four Indian reservations were added to the report. To date, four reports have been issued using 1995, 1996, 1997, and 1998 data. The 1999 report will be published when the Attorney General's Information Technology Division is able to produce the necessary data merge. Grant funds have also been received for the 2000 data collection and report, but work on that is delayed pending progress on the 1999 report.

GRANTS MANAGEMENT SECTION

Edward Byrne Memorial State and Local Law Enforcement Assistance Program

The grants management section administers the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. These funds are made available by Congress through the Anti-Drug Abuse Act of 1988 to provide financial assistance to make communities safe and improve criminal justice systems.

The Byrne grant funds are awarded by the North Dakota Drug and Violent Crime Policy Board consisting of representatives from law enforcement, corrections, the court system, victim/witness assistance programs, human services, and prosecution. The Board develops the criteria for distribution of funds, reviews applications, and makes grant award recommendations to the Attorney General.

Criteria established by the Board are based on a statewide drug and violent crime strategy focusing on drug and violence prevention and criminal justice system improvements. The awards are distributed to a variety of programs in the areas of enforcement, treatment, crime victim assistance, crime prevention, and corrections.

The Board recommended grants totaling more than \$4.4 million to 103 criminal justice projects: 4 criminal justice information systems, 26 narcotics enforcement initiatives, 36 domestic violence and victim/witness programs, 13 crime prevention and drug education programs, and 24 adjudication, prosecution, training, and treatment programs.

Local Law Enforcement Block Grants Program

The grants management section also administers the Local Law Enforcement Block Grants Program. These funds are made available by Congress through the Omnibus Fiscal Year 1996 Appropriations Act to provide units of local government with funds to underwrite projects to reduce crime and improve public safety.

During the 1999-01 biennium, a subcommittee of the Drug and Violent Crime Policy Board recommended grants totaling more than \$292,000 to 79 local law enforcement agencies.

Funds were awarded to agencies for the enhancement of officer safety and updating communications and computer information systems.

CounterAct Drug and Alcohol Education

The Office of Attorney General receives a subgrant of the Safe and Drug-Free Schools and Communities Act managed by the Division of Mental Health and Substance Abuse Services of the North Dakota Department of Human Services to implement a program entitled CounterAct. Our office uses the money to pay for officer training and student materials for the agencies involved. The CounterAct program is similar in scope to the D.A.R.E program – both use uniformed officers to present their drug and alcohol education curriculum to students – however, the CounterAct program requires less time commitment. (The CounterAct program consists of a 6-week curriculum and the D.A.R.E. program requires 17 weeks of instruction.)

The CounterAct program has become the primary drug and alcohol education program for many law enforcement agencies in North Dakota. The program has also received outstanding support from the communities involved for two reasons. First, the program provides an effective curriculum for drug and alcohol education and second, it allows law enforcement to develop relationships with students and the community. During the 1999-01 biennium, 39 officers were certified as CounterAct instructors enabling them to present the CounterAct curriculum to 3,407 students and 2,209 parents in the communities they serve.

Crime Prevention Awards

Crime prevention projects continue to be an essential component in meeting the statewide drug and violent crime strategy. The goal of these programs is to improve communication links between the public and law enforcement agencies. The net result is a willingness to work together to solve crime as the public becomes aware that it plays a vital role in assisting law enforcement. Recognizing the positive impact crime prevention programs have on the welfare of North Dakota citizens, the Attorney General established an annual crime prevention award presented each fall to acknowledge and encourage crime prevention projects.

The 1999 Crime Prevention Officer of the Year award was given to Officer Leo Rognlin (Fargo Police Department) and in 2000 Officer Jeff Fender (Williston Police Department) and McIntosh County Sheriff Steve Delzer received the award.

GAMING DIVISION

The Office of Attorney General administers, regulates, and enforces charitable gaming activity in North Dakota. Legal games are bingo, raffles, pull tabs, punchboards, sports pools, twenty-one, poker, calcuttas, and paddlewheels. The Gaming Division performs

financial and compliance office and field audits and investigations of gaming organizations, distributors, and manufacturers; ensures that the receipt, control, and disbursement of gaming funds are accurate, and operated according to the law and rules; processes gaming tax returns; collects gaming and excise taxes and monetary fines; issues administrative complaints; conducts criminal history record checks of gaming employees, officers and stockholders of distributors, manufacturers, Indian casino employees, and Indian casino management companies; provides guidance and training to representatives of organizations, distributors, and local law enforcement agencies; writes administrative rules for and assists the State Gaming Commission; and ensures compliance with five tribal-state casino gaming compacts.

OVERVIEW OF THE GAMING INDUSTRY

The gaming industry has experienced phenomenal growth in size and complexity since its inception in April 1977 – 24 years ago. In the 1999-01 biennium, there were 1,037 active gaming sites, \$502.5 million wagered, \$32 million raised for charitable uses, and \$20.5 million paid to the state in gaming and pull tab excise taxes. Since 1977, \$351 million has been raised for charitable uses. An overview of the gaming activity for the fiscal years ended June 30, 2000 and June 30, 2001 is included at Appendix E.

SIGNIFICANT ACCOMPLISHMENTS

Gaming Rules

The gaming rules were revised to clarify provisions and address statutory changes. The rules were printed in a small-size booklet. The rules were developed through a cooperative effort among the Gaming Advisory Board, State Gaming Commission, and Office of Attorney General.

Legislative Changes

The 2001 Legislative Assembly enacted several changes to the state's gaming statutes. The changes included:

- ▶ The Sunday Closing Law was clarified to allow bingo halls to be open during the same time that alcoholic beverage establishments are open on Sunday.
- ▶ A provision allowing an organization to raffle live bison, sheep, and pigs, in addition to live beef and dairy cattle that may already be raffle prizes.
- ▶ The creation of a "charity local permit" that is a blend of the present local permit and state license.
- ▶ A provision enabling bar employee to sell raffle tickets on behalf of an organization licensed to conduct games at that site.

- ▶ A clarification that a person who pled guilty to or was found guilty of certain misdemeanor offenses in violating certain laws or rules of this state or another state or federal government, and received a deferred imposition of sentence or deferred prosecution and satisfied the terms of the deferral, may be employed in the industry. Another change provided that a person's use of a fraudulent scheme or technique to cheat or skim involving the game of paddlewheels will be a class C felony offense.
- ▶ A limitation on the amount of prizes that may be awarded to players in a poker tournament to 90% of the gross proceeds.
- ▶ An increase in the maximum betting limit for the game of twenty-one, from the present \$5, to \$25. In addition the maximum monthly rent was increased from \$200, to \$300, for a twenty-one table on which a bet over \$5 is accepted.
- ▶ An increase in the allowable gaming expense limit from the present 50%, to 51%, of the first \$200,000 of adjusted gross proceeds per quarter and an increase in the allowable expense limit up to an additional 2% of the first \$200,000 of adjusted gross proceeds per quarter based on certain criteria.
- ▶ A provision allowing veterans organization to use net proceeds to establish a special trust fund for a public cemetery.
- ▶ A provision enabling a veterans, fraternal, and civic and service organization to use net proceeds to conduct a general fundraising activity provided that the gross revenue from the activity is disbursed to eligible uses.
- ▶ The creation of an exemption for an organization from the excise tax on pull tabs if its total gross proceeds of pull tabs do not exceed \$4,000 per quarter.
- ▶ A provision prohibiting a manufacturer from refusing to sell deals of pull tabs or paper bingo cards to a distributor under certain conditions.

Local Law Enforcement Grants

The 2001 Legislature discontinued the grant application process and increased funding for local gaming enforcement grants for the 2001-03 biennium. The maximum appropriation is 3% of the gaming and excise taxes paid, or \$78,625 per quarter (\$629,000 per year), whichever is less. The amount a city and county receives is in proportion to the level of gaming activity within that city and county to the statewide activity. The 2001 Legislature also appropriated an additional \$197,714 that was disbursed in the 1999-01 biennium.

Education Program

The division's education program trains employees and volunteers from organizations involved in gaming activities on laws, rules, recordkeeping, internal controls, and tax return preparation. Eleven training sessions were conducted in five major cities. A total of 425 people representing 244 organizations and 1 distributor attended. One-on-one training was provided to 50 people representing 31 organizations. Governing board training was provided to 12 people representing 4 organizations.

The office also publishes the "*Gaming Update*" quarterly newsletter. The newsletter is distributed to organizations, distributors, and members of the Gaming Advisory Board and State Gaming Commission. The newsletter included statistics on gaming, interpretation and updates of law and rules, calendar of events, and many special topics.

Audit Program

The comprehensive financial and compliance audit programs for conducting audits of organizations were refined. The audit programs include complex standard audit procedures, and tailored compliance and internal control questionnaires. Eighteen comprehensive field audits were conducted. Internal control manuals of several organizations were also evaluated and approved.

Gaming Tax Return

The tax return was simplified and its instructions rewritten to be clear and concise. Procedures were streamlined to minimize the flow of documentation from organizations.

A major project of rewriting the distributor, tax return, and quarterly report computer systems was continued. The distributor part was completed, with the remaining parts scheduled for completion in the 2001-03 biennium. The new system will create valuable databases of information and integrate the Licensing Section with the Gaming Division for optimum efficiency.

Special Projects

Several special projects were completed during the biennium, including: a) a field test on the feasibility of bingo card marking devices; b) a field test on combining the daily recordkeeping for the games of twenty-one and paddlewheels; c) simplified standard recordkeeping systems for all game types; d) addressing a locking problem on doors of pull tab dispensing devices; and e) a service survey of organizations.

Investigations and Inspections

The Office of Attorney General interacted closely and improved its relationship with local law enforcement officials. Gaming investigators provided valuable on-site assistance and testified in hearings and court cases on white-collar crime. About 72 reports of suspected

criminal activity were channeled to local law enforcement officials that resulted in many criminal complaints. Another 19 reports of administrative rule violations were investigated. Twenty administrative complaints were issued to organizations and distributors for violations resulting from investigations and audits. Investigations also resulted in several complaints being issued to individuals for criminal violations.

Staff members inspected three manufacturing facilities that produce pull tabs and paper bingo cards.

Indian Gaming

The State of North Dakota has entered into a number of tribal-state casino gaming compacts with the five Indian tribes. The compacts allow the tribes to operate reel and video slot machines, conduct craps, keno, Indian dice, twenty-one, sports and calcutta pools, poker, paddlewheels, roulette, pari-mutuel and simulcast betting, raffles, punchboards, and pull tabs on reservation land.

In September 1999, the compacts were amended. The basic provisions of all the compacts are the same. The Office of Attorney General assisted the Office of the Governor by revising the compacts for technical corrections and clarifications, proposing new provisions on economic development programs, analyzing financial statements, and providing information for use in decision-making by the Governor.

During the biennium, six Indian casinos were operating - two casinos operated on the Turtle Mountain Reservation; one on the Spirit Lake Nation Reservation; one on the Fort Berthold Reservation; one on the Standing Rock Reservation; and one on the Sisseton-Wahpeton Reservation.

Each casino expanded their facilities to diversify their operations and attract more customers. Spirit Lake expanded its motel by adding more rooms and a swimming pool and providing guided fishing tours. Standing Rock expanded its motel and dining area and added an entertainment and convention center. Turtle Mountain Band of Chippewa opened a motel and casino. Sisseton-Wahpeton opened a new casino, remodeled its former casino into an entertainment center, and built a convenience store. Three Affiliated Tribes expanded its motel and entertainment center.

One investigator was assigned full-time to enforce the provisions of gaming compacts through monthly inspections of the casinos.

CRIMINAL AND REGULATORY DIVISION

The Criminal and Regulatory Division researches legal issues for local prosecutors and law enforcement officials, and conducts or assists in the prosecution of criminal cases

when requested by a local states attorney. During this biennium, the Criminal and Regulatory Division employed five attorneys.

The division provides legal services to various state agencies and officials, including the Department of Corrections and Rehabilitation, the North Dakota Highway Patrol, the Bureau of Criminal Investigation, and the Gaming and Consumer Protection Divisions. The division also serves as legal advisor in alcoholic beverage licensing issues for the division's licensing section. The division's work includes the initiation and prosecution of enforcement actions for gaming and alcoholic beverage administrative rule and statutory violations, assistance in, and coordination of, criminal investigations, and participation in administrative hearings and state and federal court actions, including habeas corpus proceedings. With the substantial assistance of Gaming Division staff, the Criminal division successfully upheld the attorney general's determination and lower court rulings declaring a telephone card dispensing machine to be a gaming device in Midwestern Enterprises, Inc. v. Stenehjem, 2001 ND 67, 625 NW2d 234.

The division also assists states attorneys and city attorneys, state and local law enforcement agencies, and other state agencies in the prosecution of criminal offenses. This past biennium, the division handled a wide variety of felony and misdemeanor criminal prosecutions, including child sexual abuse, theft, drug, and various sex offenses. In addition, staff prosecuted two county official removal actions at the request of the Governor (Richland County). The division also defended the constitutionality of state statutes in state and federal courts, including the successful defense of the state's sex offender registration law.

The Attorney General's Criminal and Regulatory Division processes all extradition requests received by the Governor. During the biennium, there were 126 extradition requests processed.

Conducting extensive law enforcement training and preparing resource materials for state and local law enforcement officials are others functions of the division. An Attorney General's Law Report was prepared for distribution throughout the state to keep people involved in the criminal justice field apprised of recent court decisions and developments.

The division also worked closely with state and local law enforcement agencies in the implementation of 2001 legislative enactments involving criminal justice and corrections issues.

LICENSING SECTION

The Attorney General is responsible for regulating the licenses of certain North Dakota industries, including alcoholic beverage retailers; wholesale and retail tobacco product dealers; transient merchants; coin-operated amusement devices operators, lessors, and distributors; fair boards; polygraph operators; charitable gaming operators; gaming manufacturers and distributors; and wholesale fireworks distributors. Transient merchant licensing of home, commercial building, and motor vehicle repair businesses increased

substantially after the severe June 2001, hailstorm in the Bismarck/ Mandan area. Total licensing revenue deposited by the licensing section was \$34,900,469. An analysis of licensing activity can be found at Appendix F.

CONSUMER PROTECTION AND ANTITRUST DIVISION

The Attorney General's Consumer Protection and Antitrust Division ("CPAT") enforces the state's consumer fraud laws that prohibit misleading and deceptive practices in connection with the sale or advertisement of merchandise. The division investigates and prosecutes consumer fraud cases, mediates individual consumer complaints, and educates the public on how to avoid becoming victims of fraud. It is also responsible for antitrust enforcement including investigations and legal actions. In addition, when in the public interest, CPAT conducts investigations and legal actions for violations of the nonprofit corporations laws. During the biennium, CPAT opened 2,727 complaints and investigations and closed 2,550 files. The division recovered \$716,315.05 on behalf of consumers and collected an additional \$432,984.89 in fines and costs in 25 civil or criminal actions.

The Consumer Protection division emphasizes public education to prevent and combat consumer fraud. The eight-member staff made 93 public appearances discussing consumer fraud issues. In addition, CPAT initiates and coordinates numerous efforts to educate consumers through the media. These efforts include the production of a weekly newspaper column entitled "Too Good To Be True" that is printed in newspapers throughout the state; issuing news releases and consumer alerts; and participating in frequent radio programs and television appearances throughout the state to talk about current consumer scams.

Under the Older Americans Act that was reauthorized in December 2000, statutes were enhanced with provisions requiring the coordination with state and local law enforcement agencies and the courts to provide training on elder abuse, neglect and exploitation in communities and care facilities. The Consumer Protection division along with Aging Services of the Department of Human Services formed a task force and wrote an education program that will initially be presented to law enforcement officers. The training programs have been scheduled in the eight regions of the Department of Human Services. Once this training is complete, it will be offered to the faith communities (clergy, boards, and parish nurses) and the final phase will be directed to the judicial system.

The division continued coordinating the Consumer Education Advisory Committee ("CEAC") which was established by the Attorney General to provide a statewide coordinated approach to ensure that all North Dakota students are given the opportunity to develop the basic consumer and financial skills necessary for responsible citizenship. The Office of Attorney General sponsored the fourth and fifth annual state LifeSmarts competitions. In the 2001 competition, 36 schools from around the state participated in a competition of life's skills online and 15 finalists participated in the state competition. The

winning team was sent to the national competition in San Diego, California, April 16-19, 2001.

SIGNIFICANT LEGAL ACTIONS

The Office of Attorney General through CPAT pursued several actions in state court against individuals or entities under state consumer protection laws. The following is a brief description of some of the more prominent litigation.

- **Sharing Equally** – Obtained consumer fraud judgments against six defendants for promoting an illegal private gifting and pyramid scheme. Collected civil penalties and costs in the amount of \$11,750. Awarded restitution in the amount of \$76,750.
- **Internet Fraud** – Obtained a consumer fraud judgment against a defendant for deceptive sales of guns and comic books over the Internet. Awarded \$1,500 in civil penalties and costs and \$4,540 in restitution.
- **Fondest Wish Foundation** – Obtained an Assurance of Discontinuance against a company conducting unlicensed charitable solicitations. Collected \$2,500 in civil penalties and costs and \$14,000 in consumer restitution.
- **P.A.I. Inc.** - Obtained an Assurance of Discontinuance against a company conducting unlicensed charitable solicitations. Collected \$7,500 in civil penalties and costs.
- **Laidlaw Sales** – Obtained a consumer fraud judgment against defendants selling counterfeit clothing. Obtained \$1,250 in civil penalties and costs and consumers received \$10,364 in restitution.
- **Jerome Fettig and Deb Fettig dba Prairie Home Improvements** – Obtained injunction against home improvement contractor for failure to deliver goods and services. Also obtain criminal judgments against defendants for theft by deception.

The Office of Attorney General through CPAT also participated in several multistate actions. These actions are usually brought by an attorney general in one state and attorneys general from other states join the suit. Settlement fees from these cases are shared by the participating states. The State of North Dakota participated in the following multistate actions during the biennium.

- **US Bank** – Participated in Consent Judgment in federal court in regard to disclosure of customer information. Received \$68,965 in settlement fees.
- **Nine West** – Participated in settlement agreement in regard to retail shoe price maintenance. Received \$5,000 in settlement fees.

- **United States Purchasing Exchange** – Entered into settlement agreement in regard to deceptive sweepstakes claims. Received \$20,000 in settlement fees. Consumers received approximately \$950,000 in restitution.
- **Publishers Clearing House** – Entered into settlement agreement in regard to deceptive sweepstakes claims. Received \$29,018.75 in settlement fees. Consumer restitution is undetermined at this time.
- **Time, Inc.** – Entered into settlement agreement in regard to deceptive sweepstakes claims. Received \$10,000 in settlement fees.
- **Readers Digest** – Entered into settlement agreement in regard to deceptive sweepstakes claims. Received \$10,000 in settlement fees. Consumer restitution undetermined at this time.

CIVIL LITIGATION DIVISION

The Civil Litigation Division represents state agencies, officials, and employees in legal actions, including administrative hearings, state court lawsuits, federal court lawsuits, and appeals. The Attorney General and Civil Litigation Division attorneys handle cases ranging from challenges to the constitutionality of state laws to collection actions for various state agencies. The Division strives to ensure North Dakota laws are upheld and protects the interests of the State of North Dakota in the courts. From time to time, the division also becomes involved in legislative matters, when those matters are closely related to the division's primary responsibilities. During the biennium the division was staffed by an average of seven full-time attorneys, one half-time attorney, and three full-time paralegals. From July 1, 1999, through June 30, 2001, division attorneys participated in 30 arguments before the North Dakota Supreme Court, 1 argument before the North Dakota Court of Appeals, 1 argument in the United States Court of Appeals for the Eighth Circuit, and numerous arguments in other courts and administrative proceedings.

BANK OF NORTH DAKOTA

The Attorney General represents the Bank of North Dakota in cases seeking to recover bank loan money or property from delinquent borrowers and to collect overdue student loans. During the biennium Civil Litigation Division legal staff represented the Bank in 33 home loan foreclosures, 12 home loan bankruptcies, 197 farm loan foreclosures, 44 farm bankruptcy cases, 15 student loan bankruptcy cases, and 44 collection actions. Through its efforts this biennium, the Office of Attorney General collected \$3,185,370.35 for the Bank.

DEPARTMENT OF CORRECTIONS & REHABILITATION/STATE PENITENTIARY

The Office of Attorney General represents the North Dakota State Penitentiary and penitentiary employees in state and federal court cases involving inmates' allegations of unlawful conduct by prison officials, including challenges to prison policies and civil rights actions. During the past biennium, Civil Litigation Division staff attorneys handled approximately 30 such cases.

DEPARTMENT OF HUMAN SERVICES

The Office of Attorney General represents the Department of Human Services in legal actions involving the Department's programs, including medical assistance, Aid to Families with Dependent Children, food stamps, daycare and foster care licensure, fuel assistance, and child protective services. During the biennium Civil Litigation Division attorneys represented DHS in approximately 220 cases. This included cases heard in the state district courts and cases heard by the North Dakota Supreme Court. The balance of the cases were handled or resolved at the administrative hearing level.

DEPARTMENT OF TRANSPORTATION

Civil Litigation Division attorneys represent the Department of Transportation in a variety of cases, including implied consent, drivers license, condemnation, competitive bidding, discrimination, quiet title, railroad crossing, and contract cases. During the biennium, division staff was involved in 236 district court and 11 North Dakota Supreme Court appeals relating to drivers licenses, as well as other cases on behalf of the Department.

EMPLOYMENT

- ▶ **Job Service.** During the biennium, division attorneys represented Job Service in 21 state district court and 4 North Dakota Supreme Court appeals involving grants or denials of unemployment benefits. Staff attorneys also issued 330 unemployment tax complaints against employers who owed payments to Job Service, resulting in 161 judgments and the recovery of \$189,653.32. Division attorneys took legal action to recover employee benefit overpayments in 737 cases, resulting in 320 judgments and collection of an additional \$157,419.55. This represents more than a 29% increase in dollars recovered in the previous biennium.
- ▶ **Labor.** The Office of Attorney General represents the Labor Department in suits against employers who have failed to pay their employees. Only the most difficult wage claim cases are referred to the Attorney General. During the biennium, Civil Litigation Division staff handled 22 wage claim cases involving 46 individual employees, recovering approximately \$13,133 for those employees.
- ▶ **Personnel.** The Attorney General defends state agencies in their role as employers. As well as representing state agencies in state and federal court in

employment cases, staff attorneys also defend state agencies in matters appealed through the Central Personnel Division. Staff attorneys also give general legal advice on such topics as the Americans with Disabilities Act, Family Medical Leave Act, and the Fair Labor Standards Act.

PROFESSIONAL LICENSING BOARDS AND COMMISSIONS

Civil Litigation Division attorneys represent numerous state professional licensing boards and commissions in a variety of cases, including appeals from the denial of applications, and disciplinary actions. Most cases are handled or resolved at the administrative hearing stage, although some administrative decisions are appealed to the district court for review and division attorneys also handle those appeals.

RISK MANAGEMENT FUND

Chapter 32-12.2, N.D.C.C., creates a self-retention program, the State's Risk Management Fund, administered by the Office of Management and Budget. Division staff provides general counsel advice to the Risk Management Fund, including daily legal advice, assisting in drafting legislation, establishing policies and procedures, and training for state agencies and employees.

Division staff also represent the State Risk Management Fund in litigation. Five hundred forty-six new claims were filed with the Risk Management Fund during the biennium. Division staff assisted the State Risk Manager in responding to and resolving many of the claims. Division staff also defended the Risk Management Fund in 50 lawsuits filed during the biennium, as well as lawsuits existing from the prior biennium.

The division was also called upon to assist in defending the constitutionality of N.D.C.C. ch. 53-08, that provides limited liability for owners of recreational lands, including the State and its political subdivisions.

OTHER SIGNIFICANT CASES OR MATTERS

Consumer Protection Act

Ninety farmers who bought and planted confection sunflower seed for purposes of cultivation sued the seller under N.D.C.C. ch. 51-15, North Dakota's Consumer Fraud Act, alleging that the seller made knowing and deceptive misrepresentations about seed. The seller argued the farmers could not recover under N.D.C.C. ch. 51-15 because they are not consumers. The federal court issued an order of certification to the North Dakota Supreme Court on the issue. The State submitted a brief arguing farmers who purchase seeds for cultivation may seek recovery under North Dakota's Consumer Fraud Act. The supreme court held that act applied to farmers' claims.

Amicus Curiae Involvement

Amicus curiae -- or "friend of the court" -- briefs are filed by a state or other entity in a pending court case in which it is not a party. The briefs are designed to provide the court with information or a perspective that should be considered in the court's decision, but which might not be presented to the court by the parties to the case. The division monitors the requests the State receives from the attorneys general of other states or other entities to write or join these amicus briefs.

During the 1999-2001 biennium, the Office of Attorney General received 173 requests to write or join briefs amicus curiae, the majority of the briefs being filed in the United States Supreme Court. The Office of Attorney General joined or wrote briefs in 48 of these cases, including 38 United States Supreme Court cases.

Initiated Measure and Referendum Challenges

Division staff successfully defended constitutional challenges to two important provisions of North Dakota's initiated measure and referendum process. One provision, designed to prohibit fraud in the signature collection process, prohibits petition circulators from being paid on a per signature basis. The other provision requires petition circulators to be residents of North Dakota. The case was ultimately heard by the Eighth Circuit Court of Appeals, which upheld North Dakota's restrictions.

Tobacco Master Settlement Agreement and Non-Participating Manufacturer Statute Enforcement

In November 1998, the Attorney General joined 45 other states and 5 territories in a settlement agreement against the nations largest tobacco manufacturers. The Master Settlement Agreement (MSA) includes base payments to states totaling \$220.6 billion for the next 25 years, and continues in perpetuity. North Dakota's share of the settlement is expected to be \$866 million over the next 25 years. The amount of the annual payment is subject to a number of modifications including adjustments for inflation and usage volumes. Some of the adjustments may result in increases in the payments (inflation, for example), and other adjustments likely will cause decreases in the payments (volume adjustments, for example).

The MSA provides for a Non-Participating Manufacturer (NPM) Adjustment. The NPM adjustment applies if the original participating manufacturers lose market share and it is determined, by an accounting firm, that the provisions of the MSA were a significant factor contributing to the market share loss. The NPM adjustment, however, does not apply to a state that had a qualifying statute in effect and if the state diligently enforced the provisions of the statute. Chapter 51-25, N.D.C.C. adopted by the 1999 Legislative Assembly, is a qualifying statute. The statute basically requires the NPMs to pay funds into an escrow account based upon the number of cigarettes sold in North Dakota.

During the biennium, division staff spent substantial time enforcing N.D.C.C. ch. 51-25. In many cases, after appropriate communication and documentation, the NPM complied with the statute. Three lawsuits, however, were filed against non-complying NPMs. The division also spent substantial time defending and assisting in the defense of lawsuits challenging the MSA and the qualifying statutes. To date North Dakota and the other states have been successful in defending all challenges to the MSA and the qualifying statutes.

NATURAL RESOURCES AND INDIAN AFFAIRS DIVISION

North Dakota's natural resources are vital to the State's economy and to the lifestyle and well being of its people. The Attorney General, as a member of boards that oversee natural resources, plays an important role in protecting natural resources. In addition, the Attorney General and the Division of Natural Resources and Indian Affairs provide legal advice to state agencies with responsibilities for these resources. The division, comprised of five lawyers and a legal assistant, holds the environment and agricultural law portfolios. The division also assists the Land Department in managing state-owned lands and minerals; the State Engineer in regulating the appropriation of water, regulating dams, dikes, and drains, and managing the beds of navigable rivers and lakes; the Industrial Commission in regulating the exploration and development of oil and gas and administering its lignite grant program; the Game and Fish Department in managing wildlife; the Water Commission in developing and conserving water resources; and the Parks and Recreation Department in managing public recreation areas. The division also handles Indian law issues that confront state agencies and local officials.

ENVIRONMENTAL PROTECTION

During the biennium, the division assisted the Department of Health with its environmental enforcement actions and helped negotiate numerous settlements involving air pollution control, asbestos abatement, water pollution control, solid waste management, and hazardous waste management. Negotiated settlements of pollution control violations required payment of significant civil penalties to the state with additional penalties suspended, based on environmental compliance. Resolution of enforcement actions often involved supplemental environmental projects designed to enhance and protect health and the environment.

One of the most significant environmental matters involving the natural resource staff has been the Health Department's efforts to remediate a serious fuel spill under downtown Mandan. The problem has created a number of legal issues, many of which are complex. Another significant matter involving the division and the Health Department involves the Environmental Protection Agency's interpretation and application of the Clean Air Act to North Dakota's "coal country." Division staff also assisted the Health Department in its efforts to become one of the few states to fully comply with a new federal law governing

service stations. It also assisted the Department in developing model feedlot zoning and abandoned building ordinances.

WATER

The Division of Natural Resources and Indian Affairs, besides handling the day-to-day legal work concerning North Dakota's water resources, was deeply involved in a number of unique issues. The Corps of Engineers' ongoing review and proposed revision of the guidelines for its management of the Missouri River absorbed considerable time, as did the state's efforts to address Devils Lake flooding by proposing to build an outlet from the lake to the Sheyenne River. The outlet idea provoked intrastate, interstate, and international comment.

The division represents the state in a lawsuit brought by landowners in the Devils Lake area. The landowners claim damages by Devils Lake's high water and assert that the state and local water resource districts are responsible for the flooding. Natural resource staff successfully resisted the plaintiffs' efforts to certify the case as a class action. The litigation is now in the discovery phase.

The division successfully represented the state engineer in an action concerning the nature of easements and the validity of water rights related to a Bowman County dam built in the 1930s by Works Progress Administration. An amicus brief was filed with the North Dakota Supreme Court supporting the regulatory power of a local water resource district. The court decided the case as suggested by the amicus brief. During the biennium the division also represented the state engineer in enforcement actions involving water appropriations and the water commission in its construction of the Southwest Water Pipeline Project and development of the Northwest Area Water Supply Project.

SOVEREIGN LANDS

Staff involvement in this area included assisting the state engineer in addressing a myriad of title and management issues arising from the continual rise of Devils Lake. It also advised the state engineer in disputes between members of the public wanting to use sovereign lands -- the beds and banks navigable waters -- and riparian landowners who assert an interest in these lands.

AGRICULTURAL LAW

The division assisted the Agriculture Department in administering its many laws governing dairy operations, pesticide applications, livestock, and other areas. It provided considerable assistance in getting the new state meat inspection program in place. The division advised Project Safe Send, the Agriculture Department's pesticide collection and disposal program, and it provided legal advice to approximately two dozen ag-related agencies, such as the Wheat Commission and State Seed Department. Natural Resource staff spent considerable time assisting the Board of Animal Health with the development of policies and rules in its regulation of nontraditional livestock, a new and rapidly expanding

feature of North Dakota agriculture. The division represented the Agriculture Department in pesticide enforcement actions, in a successful lawsuit concerning the inhumane treatment of livestock, and in disputes before the State Seed Arbitration Board.

The division represented the state in a lawsuit against the Environmental Protection Agency. The suit asked the federal court to enjoin the EPA from implementing regulations preventing North Dakota farmers and pesticide dealers from importing Canadian pesticides identical to EPA-registered pesticides. The case was dismissed because the federal court ruled that North Dakota did not have standing to bring an action on behalf of its citizens against the federal government. The division also assisted the Agriculture Department and the state's congressional delegation in drafting legislation to address the "Canadian pesticide" issue.

ENERGY

As a member of the Industrial Commission, the Attorney General plays a vital role in ensuring that the oil and gas industry complies with the law governing the exploration and recovery of oil and gas. The Division of Natural Resources and Indian Affairs presided over several hundred of the Industrial Commission's oil and gas administrative hearings and provided advice on the decisions in these cases. Only two of these were appealed and in both cases the District Court affirmed the Industrial Commission's decision.

One of the most important administrative cases involved a week-long administrative hearing that resulted in unitization of Bowman County's huge South Cedar Hills Field. This ended a three-year dispute between the two largest oil companies operating in the field. The division also assisted the Commission in several administrative enforcement actions against operators to ensure compliance with oil and gas regulations.

The division also advises the Industrial Commission in administering the Lignite Research, Development, and Marketing Program. In particular, the Division helped draft and negotiate contracts with private entities for the Lignite Vision 21 Program, a state grant program for the development of new power plants.

The division represented the state before the Minnesota Public Utilities Commission (MPUC) in an administrative inquiry relating to MPUC's ongoing efforts to establish environmental costs, referred to as "externalities," associated with electricity generation. Following its consideration of the state's and other comments, MPUC ended further action on externalities at this time.

STATE LAND AND MINERALS

As a member of the Board of University & School Lands, the Attorney General helps manage approximately 712,000 acres of state-owned land and 1.8 million acres of state-owned minerals. Income generated from these resources supports the education of the state's children. The division assisted the Land Board with the many property law

questions and lessor/lessee problems arising from the management of this amount of land and minerals.

The only litigation involving the Land Board concerned an action by the Board against Avicara Energy Corp., in which the Board, after an audit, alleged that Avicara failed to pay adequate royalties under its state oil and gas leases. The case was settled by Avicara paying the Land Board \$80,000.

INDIAN ISSUES

During the biennium, state agencies and local officials were confronted with complex jurisdictional issues involving North Dakota's Indian tribes. The Division of Natural Resources and Indian Affairs provided legal advice on such jurisdictional issues as the role of state law enforcement officers on reservations and the extent of the state's regulatory jurisdiction over activities on reservations. It also contributed to the 2000 and 2001 Supplements to the Conference of Western Attorneys General American Indian Law Deskbook.

The division successfully defended the state in a suit brought by the Spirit Lake Nation in which it asserted title to Devils Lake. In January of 2000 the federal District Court dismissed the tribe's suit. The tribe appealed and in August of 2001 the Eighth Circuit Court of Appeals affirmed the district court's decision. The tribe's petition for rehearing is pending before the Court of Appeals.

The division successfully represented the North Dakota National Guard in a lawsuit brought by a member of the Standing Rock Sioux Tribe who claimed the Guard damaged his property when it cleaned rural roads during a snow emergency. The tribal court granted the division's motion to dismiss, agreeing that it doesn't have jurisdiction over the state and its agencies.

The division successfully defended a lawsuit brought by several members of the Spirit Lake Nation against state officials and the City of Devils Lake. The lawsuit, filed in tribal court, alleged that the tribe has an exclusive water right to the Warwick Aquifer and that the city's use of the aquifer is illegal. State officials were sued because the state issued a water appropriation permit to the city. The tribal court granted the division's motion to dismiss the action.

GAME AND FISH

The division provided significant assistance in getting the Game & Fish Department's "Coverlocks" program off the ground. The program provides money to landowners who in return grant the public hunting rights and allow the Department to develop wildlife habitat on the private land. The division also advised the Department in handling the many hunting and landowner "rights" issues that have recently arisen.

LITTLE MISSOURI NATIONAL GRASSLANDS

During the biennium the United States Forest Service took a number of significant management initiatives affecting the Little Missouri National Grasslands. The Attorney General's Office was active in monitoring these events and submitted formal comments on some of them. In February 2001, it filed an administrative appeal -- which is still pending -- challenging the Forest Service's "off-highway vehicle" policy restricting all motorized travel to only roads approved by the Forest Service. The policy adversely affects the state's section line right-of-way law, a law the Attorney General analyzed in a formal opinion and ruled applicable to federal land.

STATE AND LOCAL GOVERNMENT DIVISION

The eight full-time attorneys, one half-time attorney, and one half-time legal assistant in the State and Local Government Division provide day-to-day legal services to 66 state agencies, boards, and commissions. By providing consistent oral and written legal advice, reviewing documents and contracts, and being available for consultation and legal research, the attorneys assist agencies in applying the law consistently and fairly and help to prevent legal problems from arising.

GENERAL FUNCTIONS

The State and Local division provides a myriad of services including:

- **Administrative Rule Review.** By statute the Office of Attorney General must review all administrative rules promulgated by state agencies and boards for legal sufficiency and ensure that proper procedures have been followed. The office reviewed 81 sets of rules during the biennium.
- **Joint Powers Agreements.** The division reviewed all joint powers agreements involving the state or state agencies prior to their execution.
- **Bond Counsel Services.** Division staff also participated in and delivered Issuer's Counsel Opinions on each bond transaction generated by every state agency, other than some for the State Board of Higher Education.
- **Legislative Advisory Services.** During the 2001 Legislative Session, attorneys from the division assisted agencies and members of the Legislative Assembly by drafting bills and amendments, explaining the ramifications of proposed legislation and testifying before legislative committees when requested.
- **Legal Opinions.** The Attorney General is frequently asked for legal opinions by state legislators, state officials, county state's attorneys, city attorneys, city

governing bodies, water resource boards and soil conservation districts. These opinions guide the actions of public officials until the courts decide the issue. During this biennium the Attorney General issued 133 opinions on a variety of subjects. Opinion requests were received from 34 legislators, 44 states attorneys, 18 city attorneys, 32 state agencies and 5 from other entities. An additional 22 opinions were issued to public entities at the request of members of the public or media regarding alleged violations of the open records/open meetings laws. Another 37 letters containing legal reviews or analyses were issued by the Attorney General to state agencies.

OPEN RECORDS AND OPEN MEETINGS

Since 1997, the open records and open meetings laws have authorized the Attorney General to issue opinions to public entities in response to a complaint by a member of the public that the public entity had violated the open records or open meetings law. This form of administrative review has proven to be an effective vehicle to remedy violations of the open records and meetings law. Between July 1, 1999, and June 30, 2001, the office received 38 requests for Attorney General opinions based on alleged violations of the open records or open meetings laws. Twenty-two opinions were issued to twenty-four requesters in that time. (In some instances more than one person complained about the same alleged violation.) Seven requests were withdrawn after the person complaining received the material requested or was satisfied the violation had been remedied. Six of the requests were not reviewable based on the substance of the complaint or its timeliness. The division also handled a large number of telephone calls from public entities and citizens regarding open records and meetings requirements. Responding over the telephone in many cases eliminated possible violations or opinion requests.

SIGNIFICANT ATTORNEY GENERAL OPINIONS

All Attorney General opinions issued since January 1, 1993, are posted on the Office of Attorney General's home page at <http://www.ag.state.nd.us>. The Open Records/Open Meetings Manual is also available on the home page.

- Limitation in state law on eligibility for Temporary Assistance for Needy Families benefits for families residing in North Dakota for less than 12 months would be declared unconstitutional by a court. 1999 N.D. Op. Att'y Gen. F-10.
- A township must give notice to an individual of meetings if the individual requests. 1999 N.D. Op. Att'y Gen. O-10.
- Federal land in North Dakota can be burdened by public roads established by prescription under state law and by the state's section line law. 2000 N.D. Op. Att'y Gen. F-05.
- The confidentiality of juvenile law enforcement records continues after the juveniles has died. 2000 N.D. Op. Att'y Gen. F-09.

- A city without home rule authority may own and operate a business, including a gas station and convenience store. 2000 N.D. Op. Att’y Gen. F-19.
- A home rule city may borrow money from a local financial institution without issuing improvement bonds or warrants. 2000 N.D. Op. Att’y Gen. L-156.
- The authority to hold an executive session for contract negotiation strategy does not extend to job performance evaluations. 2000 N.D. Op. Att’y Gen. O-09.
- The photographs of a juvenile who died while in custody of a regional correctional facility are not protected by a constitutional right to privacy. 2000 N.D. Op. Att’y Gen. O-13.
- The City of Jamestown is not liable to a hospital for medical services rendered to an individual brought to the hospital by a city policeman after being placed under arrest but prior to being placed in a correctional facility. 2001 N.D. Op. Att’y Gen. L-11.
- County electors must vote on whether to construct a project if the costs will be repaid from revenues that will be received by the county beyond the current year. 2001 N.D. Op. Att’y Gen. L-22.
- The Legislative Assembly has the constitutional authority to reduce the terms of legislators from four years to two years if necessary to implement a valid redistricting. 2001 N.D. Op. Att’y Gen. L-25.
- Public schools may not charge fees for machine repair and maintenance or fees for the use and maintenance of lockers. 2001 N.D. Op. Att’y Gen. L-29.
- The names of applicants for the superintendent position in a public school district are open records, even if provided to an outside personnel firm rather than the district itself. 2001 N.D. Op. Att’y Gen. O-02.
- A retreat by a school district board involving school business and attended by a quorum of the board is a “meeting” under the state’s open meetings laws. 2001 N.D. Op. Att’y Gen. O-05.
- Providing a black and white photocopy of a color picture does not meet the statutory requirement that a “copy” be provided upon request. If a copy of a colored picture is requested, a public entity must provide a duplicate or exact reproduction of it. 2001 N.D. Op. Att’y Gen. O-06.

FINANCE AND ADMINISTRATION DIVISION

The Finance and Administration Division provides administrative and office financial services. The division is responsible for budget, payroll, and accounting matters; information processing; and purchasing and other administrative functions.

During the biennium a division staff committee devoted considerable time and effort planning for implementation of a financial package to assist in managing several office funds, purchasing, bill payment, and other accounting functions. As a part of the implementation, the division sent out requests to all office vendors to allow for the direct deposit of payments. As a result of this project, the division now directly deposits vendor payments to many businesses. As this payment method becomes more widely accepted, the majority of payments this office makes can be automated, resulting in less bill payment processing costs. Staff members also attended software demonstrations for a statewide information management system.

As a result of an extensive strategic planning effort, processing issues and means of obtaining efficiencies have been identified, job duties have been reassigned, and several procedures were established to allow the division to complete its work in a more effective manner. Implementation of the strategic planning results continues.

The division participated in testing the new online requisition and procurement programs, both of which are now used. Use of these programs has resulted in a more effective bid and purchase process.

INFORMATION TECHNOLOGY DIVISION

The Information Technology Division is responsible for providing information technology support to all divisions of the Office of Attorney General. The division consists of eight employees who provide various technology services including planning and development of computer applications; contract administration; development, maintenance, and administration of the agency's computer network and training on computer software. The staff supports three Bismarck locations and ten remote locations across the state.

During the 97-99 biennium, the Information Technology area became a division within the agency to enable The Office of Attorney General to more adequately fulfill its responsibility for the provision of a wide variety of services and information to all state agencies, state, local and federal law enforcement agencies and North Dakota citizens. The increasing need for information and services from the agency is in part due to North Dakota's rural nature, as well as upon the increasing demand worldwide for information and service.

The division recognizes the importance of being able to readily share information. A development platform was selected several years ago to enable the division to provide computer applications where data could be easily shared between divisions of the agency, as well as with other agencies whose applications exist on different computer platforms. With the implementation of the new Criminal History system, we have proven that this is not only possible, but is very efficient and time-effective. The new Criminal History system is receiving transmitted information from six different Livescan fingerprint stations across the state. The system is in constant communications with the Automatic Fingerprint Identification System in Minnesota. The system constantly checks for requests from State Radio, reads the data from the repository and sends the information back to State Radio to be passed on to local, state, and national law enforcement personnel, all in a matter of seconds. The various applications are communicating on a real time basis even though all reside on different computer platforms utilizing different databases.

As the need for more timely information has increased, so has the complexity of the agency systems. This results in the need for a highly skilled staff, as well as the need for ongoing training to maintain these skills. This is a constant challenge to the Information Technology Division.

ACCOMPLISHMENTS DURING THE BIENNIUM

- A new Criminal History repository was created and housed on a computer within the Office of Attorney General.
- Livescan units installed at six different booking stations across the state were programmed to transmitting arrest and demographic information real-time into the BCI, where it is reviewed by an identification technician and then added to the Criminal History repository.
- Fingerprints from the livescan units are automatically sent to the Automated Fingerprint Identification System (AFIS) database in Minnesota, and results automatically send back to the AFIS workstation at BCI.
- Fingerprint and arrest information is transmitted to the FBI as soon as it is entered into the Criminal History system. Before the new system was implemented, copies of the fingerprint cards were being collected and mailed monthly to the FBI.
- A fingerprint imaging system was implemented allowing BCI staff to transmit electronic copies of fingerprint cards to the FBI for background checks on persons applying for licensing or other services administered by state agencies (teaching certification, adoption, foster care, and private security license). This system reduced the turnaround time from 4-8 weeks down to a matter of days.
- Parole/Probation information is received nightly from the Department of Corrections. This information appears on the rap sheet.

- When a request for information is received from law enforcement through State Radio, a check is done to see if the person is on parole or probation. If the person is then an email is automatically sent to his/her parole/probation officer notifying them of the inquiry.
- The new sex offender information system was implemented and works in conjunction with the Criminal History system. The new system provides automated mechanisms to help track the arrest and prosecution and subsequent registration requirements of an offender.
- When any type of inquiry is done through State Radio, a check is done against the sex offender registration file, and a message sent back through state radio notifying the officer if the person is a convicted sex offender.
- The Central Warrant Information System (CWIS) was rewritten and implemented.
- The distributor module of the charitable gaming system was rewritten and implemented.
- The IT staff expanded its support assistance to a 24-hour, 7-days a week schedule in order to ensure the continuous operation of the Criminal History system.
- A statewide fire incident reporting system for the Fire Marshal Division was implemented and the division began to provide technical assistance to the local fire departments when necessary.
- The division assisted the Cybercrime Unit of BCI with technical support.
- Information Technology staff participated in meetings with ITD and other state and local agencies to explore ways to develop and implement an Integrated Justice System for the state.
- Division staff implemented software that allows staff to monitor and troubleshoot computers at remote locations and consequently lessens the amount of travel needed to support these locations.
- The Agency web site was moved to an internal server to facilitate maintenance and to provide Web-based applications for our customers.
- Attorney General Opinions were placed on the office web page and are being maintained.
- Many forms, brochures, and other public information has been placed on the Web page for use by the general public. This saves on mailing costs, as well as provides a higher level of customer service.

- The division converted the network typology from tokenring to Ethernet in preparation for joining ITD's network domain for Windows 2000 implementation.
- Windows 2000 and Office 2000 were implemented on the majority of our workstations.

FIRE MARSHAL DIVISION

The Fire Marshal Division's goals are the prevention of fires through education, training, and inspections; provision of assistance in the mitigation of hazardous materials incidents and fire investigations. The division's main office is located in Bismarck and there are four field offices located Grafton, Fargo, Dickinson, and Minot.

The division conducts fire investigations in conjunction with local fire service personnel and on its own. During the biennium the division conducted 154 fire cause and origin investigations. Of these, arson was determined to be the cause in 18 percent of the inspections.

The division's emphasis on prevention is carried out through public education programs and specialized training. Education programs are conducted to assist citizens in preventing fire and protecting themselves and their families if a fire occurs. The division also provides specialized training in fire prevention, fire scene investigation, and hazardous materials response.

To enhance the level of fire safety throughout the state, the division conducts fire inspections in public facilities, educational buildings, childcare facilities, and at flammable material storage sites. During the biennium, the Fire Marshal staff conducted 213 school inspections, 137 fuel inspections, 53 hazardous materials classes (with 979 students), 27 day care inspections, and 13 assembly inspections.

Seventeen people lost their lives to fire in North Dakota during the biennium. This compares to 11 lives in the previous biennium. Statewide fire incident statistics are not currently available as the office is in the process of converting a manual fire incident tracking system to the new computerized National Fire Incident Reporting.

Some of the highlights for the division during the biennium were:

- Development and distribution of a Fire Chiefs Guide to assist fire chiefs in daily operations.
- Publishing and editing of a quarterly newsletter, "The Bugle," which is distributed to fire departments across the state. The newsletter updates fire departments across

the state regarding training dates and locations and includes a fire prevention column, hazardous materials information, code compliance articles, and a classified ad section.

- A fire prevention lesson plan and flip chart was developed and was distributed to the fire chiefs of North Dakota. The lesson plan is geared for younger school-age children and can be delivered by the teacher or the fire service. The fire prevention theme is "Buford Beaver's Fire Safety Tips."

ATTORNEY GENERAL ADMINISTRATION DIVISION

The Attorney General Administration Division provides administrative, personnel, and legal support to the other divisions of the office, and constituent services and information to the public. The Division is composed of the Attorney General, Chief Deputy Attorney General, Administrative Assistant and Personnel Officer.

The personnel officer is responsible for assisting all division directors with hiring, retention, evaluations, reclassifications, salary administration and other personnel issues. During the biennium all employees received evaluations under the office-wide evaluation program. The division also initiated and completed reviews for possible reclassification of employees.

The Office of Attorney General provides equal opportunity in employment for all persons. In compliance with federal and state law, the Attorney General continues to file an Equal Employment Opportunity Affirmative Action Plan designed to encourage the participation and advancement of all sectors of North Dakota's population. To increase exposure to minorities, the Office continues to make contacts with the public regarding positions available in the Office of Attorney General through high school and college career fairs and requested appearances.

During the biennium, the division continued its efforts to provide the public with informative and useful information regarding the Office of Attorney General and state government in general. Particularly popular with educators and persons involved with youth was a brochure explaining the legal consequences of teenage sexual activity. The office also continued to prepare and distribute brochures to the public on various topics including the functions of the Office of Attorney General, Eminent Domain, Landlord Tenant Rights, and financial information for young people. Additionally the Office of Attorney General updated its web page by expanding its contents. The page now includes Attorney General opinions, the Concealed Weapons Manual, and the Open Records and Meetings Manual.

The Division also handled a great a number of telephone calls and in-person visits from public entities and citizens with regard to a wide variety of questions and topics.

Office Directory

STATE CAPITOL

600 E Boulevard Ave
Bismarck, ND 58505-0040

Administration

(701) 328-2210
(701) 328-2226 (Fax)

State and Local Government Division

(701) 328-2210
(701) 328-2226 (Fax)

Consumer Protection and Antitrust Division

(701) 328-3404
1-800-472-2600
1-800-366-6888 (TTY)
(701) 328-3535 (Fax)

Gaming Division

(701) 328-4848
1-800-326-9240
(701) 328-3535 (Fax)

Licensing Section

(701) 328-2329
(701) 328-3535 (Fax)

OUTSIDE CAPITOL COMPLEX

Civil Litigation Division

Natural Resources and Indian Affairs Division

500 North 9th Street
Bismarck, ND 58501-4509
(701) 328-3640
(701) 328-4300 (Fax)

Racing Commission

(701) 328-4290

Bureau of Criminal Investigation

PO Box 1054
Bismarck, ND 58502-1054
(701) 328-5500
(701) 328-5510 (Fax)

Drug Hotline

1-800-472-2185

Fire Marshal

PO Box 1054
Bismarck, ND 58502-1054
(701) 328-5555
(701) 328-5510 (Fax)

Information Technology Division

PO Box 1054
Bismarck, ND 58502-1054
(701) 328-5500
(701) 328-5510 (Fax)

APPENDICES

Appendix A - Office of Attorney General 1999-01 Biennium Expenditures
By Line Item - Total Expenditures \$23,946,795

Appendix B - Office of Attorney General
1999-01 Biennium Expenditures by Funding Source

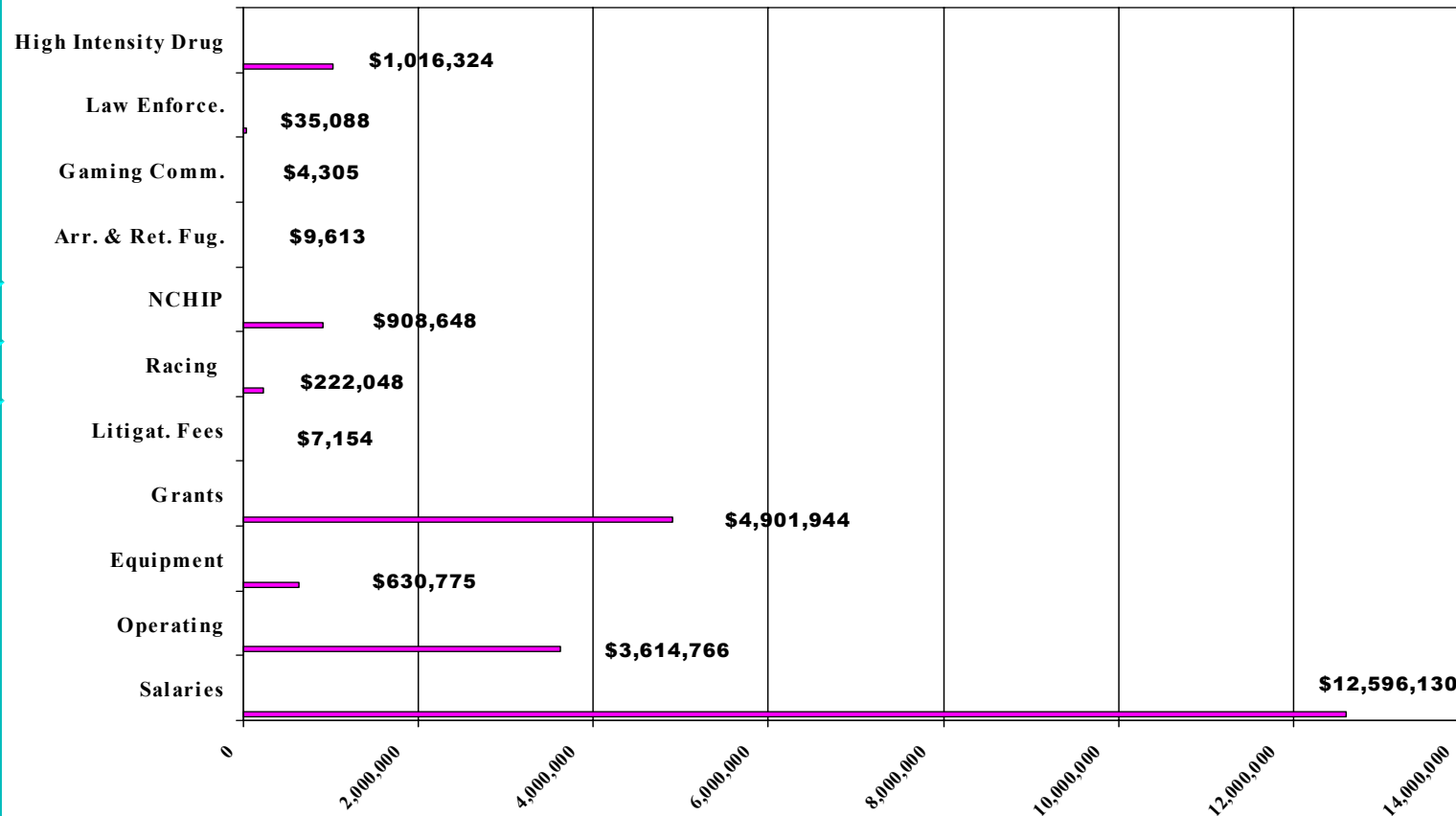
Appendix C - Office of Attorney General
1999-01 Biennium Expenditures by Division

Appendix D – Costs Associated with Prosecuting & Defending Actions
On Behalf of the State For the 1999–01 Biennium

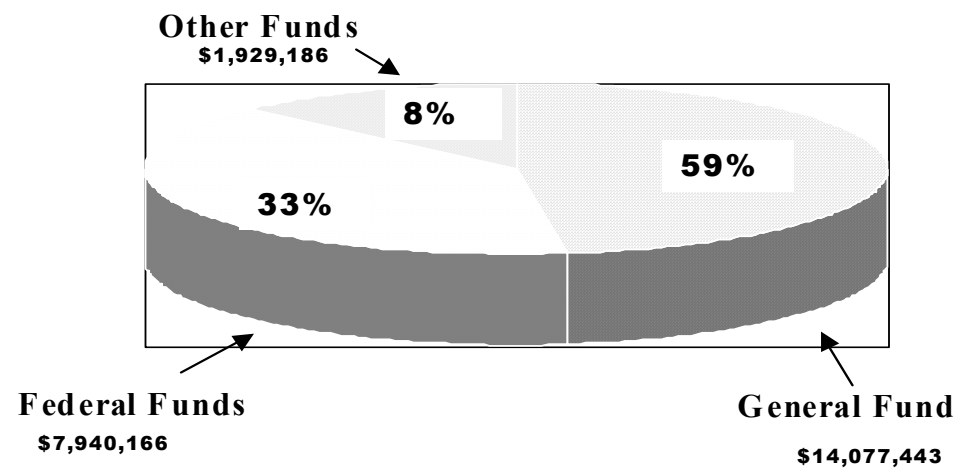
Appendix E – North Dakota Games of Chance
Fiscal Year Ending June 30, 2000
Fiscal Year Ending June 30, 2001

Appendix F - Analysis of Licensing Activity
For the 1999-2001 Biennium

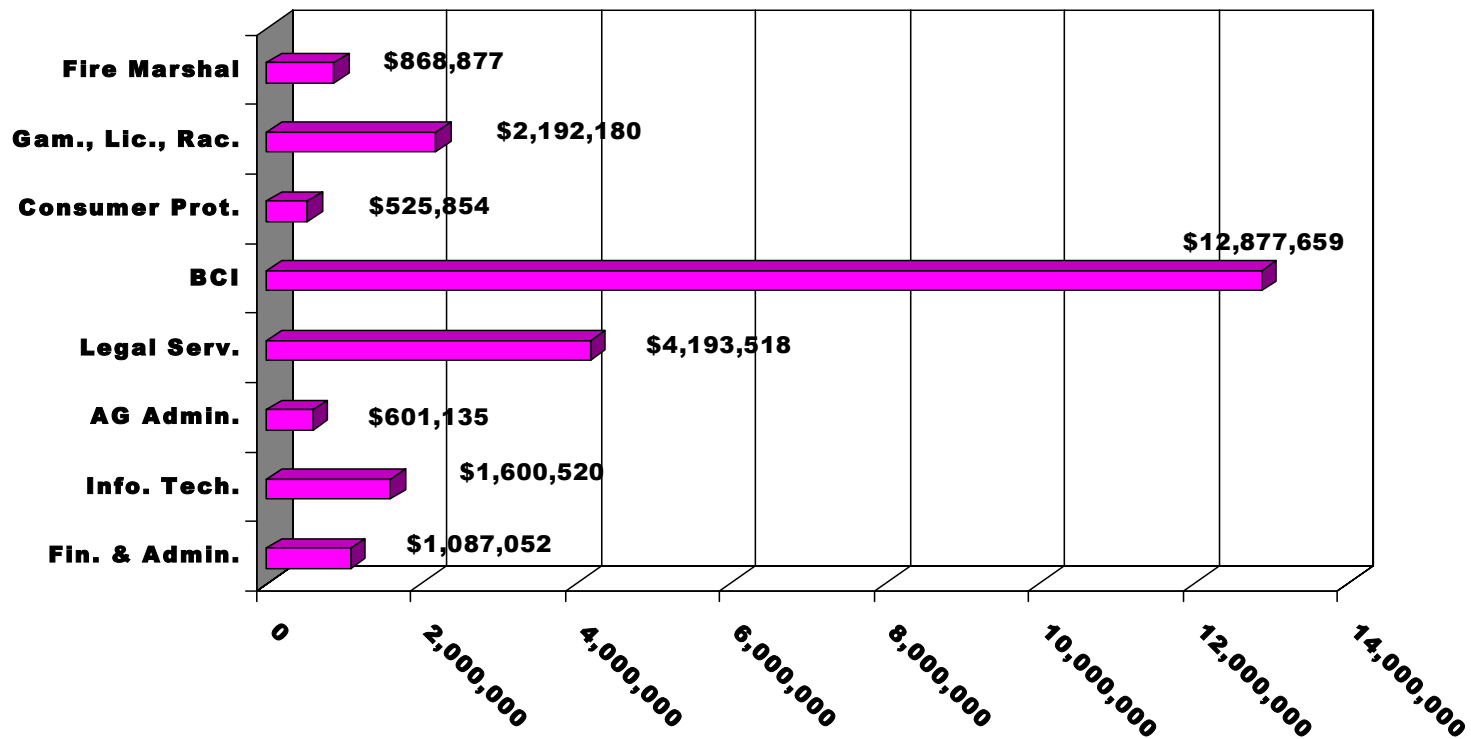
Office of Attorney General 1999-01 Biennium Expenditures By Line Item - **Total Expenditures \$23,946,795**



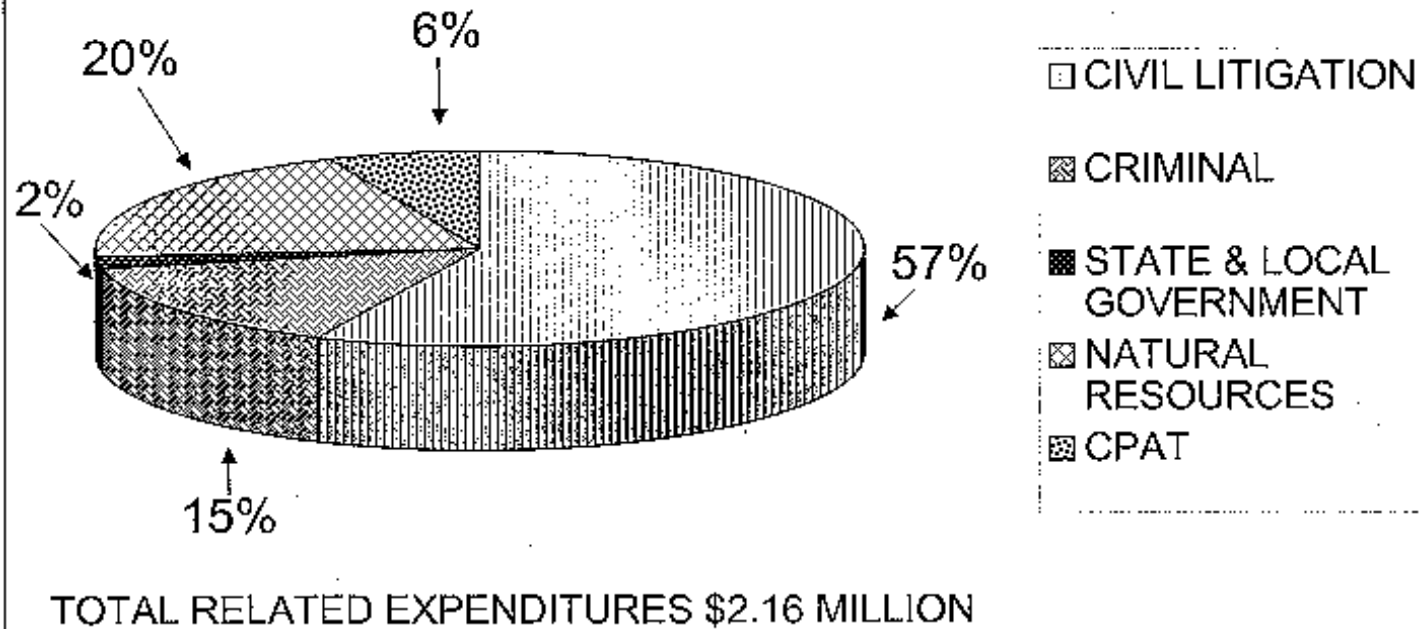
Office of Attorney General
1999-01 Biennium Expenditures
By Funding Source



Office of Attorney General
1999-01 Biennium Expenditures By Division
Total Expenditures \$23,946,795



COSTS ASSOCIATED WITH PROSECUTING AND DEFENDING ACTIONS ON BEHALF OF THE STATE FOR THE 1999-2001 BIENNIUM



NORTH DAKOTA GAMES OF CHANCE

Appendix E

Gaming Activity

Fiscal Year Ended June 30, 2000

	<u>Gross Proceeds</u>	<u>Prizes</u>	<u>Adjusted Gross Proceeds</u>
Bingo	\$50,349,989	\$39,078,953	\$11,271,036
Bingo (Dispensing Devices)	42,299	33,909	8,390
Raffles	2,554,215	1,151,429	1,402,786
Pull Tabs (Jar Bar)	112,534,962	88,294,097	24,240,865
Pull Tabs (Dispensing Devices)	52,893,199	41,201,931	11,691,268
Club Specials,Tip Boards,Coin Boards,& Seal Boards	1,269,796	925,737	344,059
Punchboards	16,735	11,923	4,812
Sports Pools	121,823	93,896	27,927
Twenty-one	32,584,305	26,507,123	6,077,182
Calcuttas	435,431	359,036	76,395
Paddlewheels	1,037,099	764,439	272,660
Paddlewheels (Table Game)	2,161,968	1,594,973	566,995
TOTALS	\$256,001,821	\$200,017,446	\$55,984,375

Plus:	Interest Earned, Cash Long (Short), & Poker	\$72,513
Less:	ND Excise Tax	7,234,998
	Federal Excise Tax	132,745
	Bingo Sales Tax	2,901,420
	Total Adjusted Gross Proceeds	\$45,787,725
Less:	ND Gaming Tax	\$3,138,814
	Allowable Expenses	26,348,367
	Total Deductible Expenses	\$29,487,181
	Net Proceeds Earned	\$16,300,544

Fiscal Year Ended June 30, 2001

	<u>Gross Proceeds</u>	<u>Prizes</u>	<u>Adjusted Gross Proceeds</u>
Bingo	\$47,997,730	\$37,418,837	\$10,578,893
Bingo (Dispensing Devices)	39,840	32,896	6,944
Raffles	2,780,383	1,220,456	1,559,927
Pull Tabs (Jar Bar)	108,773,111	85,949,977	22,823,134
Pull Tabs (Dispensing Devices)	50,862,001	39,637,103	11,224,898
Club Specials,Tip Boards,Coin Boards,& Seal Boards	999,099	713,617	285,482
Punchboards	29,294	21,633	7,661
Sports Pools	172,523	138,351	34,172
Twenty-one	30,429,904	24,857,937	5,571,967
Calcuttas	191,037	162,297	28,740
Paddlewheels	901,361	650,814	250,547
Paddlewheels (Table Game)	3,340,489	2,356,910	983,579
TOTALS	\$246,516,772	\$193,160,828	\$53,355,944

Plus:	Interest Earned, Cash Long (Short), & Poker	\$32,202
Less:	ND Excise Tax	6,671,107
	Federal Excise Tax	123,076
	Bingo Sales Tax	2,625,197
	Total Adjusted Gross Proceeds	\$43,968,766
Less:	ND Gaming Tax	\$3,063,349
	Allowable Expenses	25,157,506
	Total Deductible Expenses	\$28,220,855
	Net Proceeds Earned	\$15,747,911

ANALYSIS OF LICENSING ACTIVITY
FOR THE 1999-2001 BIENNIUM

TYPE OF LICENSE	NUMBER ISSUED	REVENUE COLLECTED
Beer License	3,136	\$ 244,932
Charitable Gaming Excise Tax	2,401	14,332,133
Cigarette License	4,374	68,890
Coin License	324	118,600
Detection of Deception License	29	1,045
Fair and Fairboard License	23	1,150
Gaming/Distributor/Manufacturer License	1,378	304,350
Gaming Tax	2,687	6,142,968
Liquor License	2,892	223,691
ND Record Check	2,244	51,457
Transient Merchant License	74	14,800
Wholesale Fireworks License	34	8,500
TOTAL	19,596	\$ 21,512,516